

APPEAL NO. 041324
FILED JULY 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 6, 2004. With respect to the issues before her, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters. In her appeal, the claimant argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____. The parties stipulated that the claimant reached maximum medical improvement on June 12, 2001, with an impairment rating of 23%; that the claimant did not commute her impairment income benefits; that the fifth quarter of SIBs ran from October 8, 2003, through January 6, 2004, with a corresponding qualifying period of June 26 through September 24, 2003; and that the sixth quarter of SIBs ran from January 7 through April 6, 2004, with a corresponding qualifying period of September 25 through December 24, 2003. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by showing that she had a total inability to work during the relevant qualifying periods. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement of Rule 130.102(d)(4) by demonstrating that she had no ability to work in the qualifying periods. The hearing officer was not persuaded that the evidence presented by the claimant was sufficient to satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer determined that other records show that the claimant had an ability to work in the qualifying periods for the fifth and sixth quarters of SIBs. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's determination that the claimant did not satisfy the good faith requirement under Rule 130.102(d)(4) in any of the relevant qualifying periods, or the determination that the claimant is not entitled to SIBs for the fifth and sixth quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Edward Vilano
Appeals Judge